

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-4182

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

JACQUES PIERRE,

Petitioner,

- v -

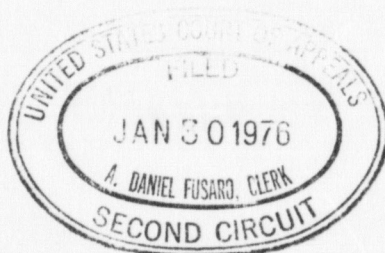
IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

Docket No. 75-4182

B
P/S

APPENDIX TO PETITIONER'S BRIEF



JANUARY, 1976

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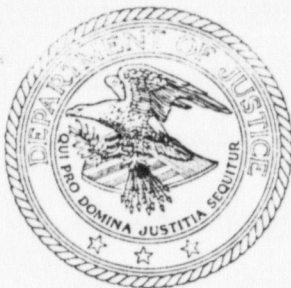
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LIST OF PARTS OF RECORD HEREIN CONTAINED

Administrative Record
Document Number

Appendix Page

2	DECISION OF THE BOARD OF IMMIGRATION APPEALS, DATED MAY 1, 1975	1a - 3a
7	DECISION OF THE IMMIGRATION JUDGE DATED NOVEMBER 25, 1974	4a - 7a
8	TRANSCRIPT OF DEPORTATION HEARING HELD ON NOVEMBER 17, 1974	8a - 28a
9	APPLICATION FOR WITHHOLDING OF DEPORTATION PURSUANT TO SECTION 243(h) OF THE IMMIGRATION AND NATIONALITY ACT DATED OCTOBER 22, 1974	29a
10	LETTER FROM DISTRICT DIRECTOR TO PETITIONER DATED JULY 16, 1974	30a
11	LETTER TO IMMIGRATION AND NATURALI- ZATION SERVICE FROM DEPARTMENT OF STATE DATED JULY 11, 1974	31a - 32a
12	LETTER TO DEPARTMENT OF STATE FROM DISTRICT DIRECTOR DATED FEBRUARY 7, 1974	33a - 34a
15	ORDER TO SHOW CAUSE DATED JUNE 6, 1973	35a



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

File: A20 104 033 - New York

MAY 1 - 1975

In re: JACQUES PIERRE

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Richard Dana, Esquire
Claude Henry Kleeefield, Esquire
100 West 72nd Street
New York, New York 10023

ON BEHALF OF I&N SERVICE: Billino D'Ambrosio
Appellate Trial Attorney

ORAL ARGUMENT: April 16, 1975

CHARGE:

Order: Section 241(a)(2), I&N Act (8 U.S.C.
1251(a)(2)) - Nonimmigrant
in transit - remained longer
than permitted

APPLICATION: Withholding of deportation under section
243(h) of the Immigration and Nationality
Act

This is an appeal from an order of an immigration judge, dated November 25, 1974, which finds the respondent deportable as charged, denies his application for withholding of deportation under section 243(h) of the Immigration and Nationality Act, and which grants him the privilege of voluntary departure. The appeal will be dismissed.

The respondent, an alien who is a native and citizen of Haiti, entered the United States on or about October 18, 1969 as a nonimmigrant in transit for three (3) days. He has remained beyond that date without permission. The allegations contained in the Order to Show Cause were admitted and deportability was conceded. Our review of the record satisfies us that deportability has been established by evidence which is clear, convincing and unequivocal.

The application for withholding of deportation is based on the respondent's assertion that he would be persecuted because he supported one Dejoie, who opposed Francois Duvalier in 1957. The respondent alleges that he worked for a man who was taken to prison and beaten to death because of his support of Dejoie. The respondent asserts that he would be arrested if returned to Haiti.

The immigration judge in his decision noted that on July 11, 1974 the Director of the Office of Refugee and Migration Affairs advised the Immigration and Naturalization Service that the Department of State knows of no instance in which the current government of Haiti has persecuted family members or associates of persons involved in subversive acts against the present or past governments of Haiti. The Department also pointed out that the respondent's claim is based not on what has happened to him but on alleged events surrounding his employer. The immigration judge also noted that in view of the many years which have elapsed since the respondent's alleged support of Mr. Dejoie and in view of the lack of personal repercussions between 1957 and 1969, when he came to the United States, the respondent had failed to establish a well founded fear that his life or freedom would be threatened in Haiti on account of his race, religion, nationality, membership in a particular social group or political opinion.

A20 104 033

After carefully considering the evidence of record and the representations of counsel on appeal, we find that the respondent has failed to show a well-founded fear that his life or freedom will be threatened in Haiti on account of his race, religion, nationality, membership of a particular social group or political opinion. We therefore conclude that he will not be subject to persecution if deported there. See Matter of Dunar, Interim Decision 2192 (BIA 1973). We accordingly shall uphold the immigration judge's decision and dismiss the appeal.

ORDER: The appeal is dismissed.

FURTHER ORDER: Pursuant to the immigration judge's order, the respondent is permitted to depart from the United States voluntarily within 90 days from the date of this order or any extension beyond that time as may be granted by the District Director; and in the event of failure so to depart, the respondent shall be deported as provided in the immigration judge's order.

Chairman

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: A20 104 033 - New York

NOV 25 1974

In the Matter of)
JACQUES PIERRE)
Respondent)
IN DEPORTATION PROCEEDINGS

CHARGE: I & N Act - Section 241(a)(2) (8 USC 1251(a)(2)) -
nonimmigrant - remained longer than permitted

APPLICATION: Voluntary departure; temporary withholding of deportation
to Haiti, Section 243(h) I & N Act

In Behalf of Respondent:

Claude H. Kleefield, Esq.
100 West 72nd Street
New York, N. Y. 10023

In Behalf of Service:

Allan A. Shader, Esq.
Trial Attorney

DECISION OF THE IMMIGRATION JUDGE

The respondent is a 45-year-old married male alien, native and citizen of Haiti, who last entered the United States at San Juan, Puerto Rico, on October 18, 1969 at which time he was admitted as a nonimmigrant in transit for a period of 3 days. He remained beyond those 3 days without authority thereby becoming subject to deportation on the charge contained in the Order to Show Cause.

The respondent has applied for voluntary departure from the United States in lieu of deportation. He has testified that he has never been arrested or been in difficulty with the police. He has the funds with which to

pay his way out of the United States and although he seems to be reluctant to do so at this time I am satisfied that if faced with the alternative of deportation that he will leave voluntarily at his own expense. He has approximately \$2000 in savings and has worked regularly for the past 3 years for the same company at a salary of \$125 per week. He was married on August 15, 1973 to a United States citizen but has never lived with this woman because she refused to go off welfare and come live with him. His wife had 3 children prior to the marriage. No visa petition was filed by his wife in his behalf.

The respondent was asked to designate a country to which he would prefer to be sent in the event deportation became necessary and designated France. He was told that if France would not accept him as a deportee his deportation would be directed to Haiti. The respondent thereupon asserted a claim to a stay of deportation under Section 243(h) of the Immigration and Nationality Act claiming that he would be subject to persecution if deported to Haiti. On February 7, 1974 the Immigration authorities referred the respondent's claim of persecution to the Director of the Office of Refugee and Migration Affairs of the Department of State and the respondent confirmed that the facts contained in that letter are substantially correct. The respondent stated that he was a supporter of Dejoie, a politician who opposed Duvalier in 1957. He stated that he worked for a man in Haiti who was also a supporter of Dejoie who was taken to prison and beaten to death because of that fact. It was this fact which caused him to move from Cap-Haitien where he was living to Port-au-Prince so that he could come to the United States. He managed to have a friend obtain

his passport. The respondent stated that no other members of his family have been subjected to persecution but believes that if he returns to Haiti he would be arrested.

On July 11, 1974 the Director of the Office of Refugee and Migration Affairs advised the Immigration and Naturalization Service that the Department of State knows of no instance in which the current government of Haiti has persecuted family members or associates of persons involved in subversive acts against the present or past governments of Haiti. The Department also points out that the respondent's claim is based not on what has happened to him but on alleged events surrounding his employer.

The respondent added nothing further to his claim of persecution than what was already submitted to the Department of State.

In view of the many years which have elapsed since his alleged support of Mr. Dejoie in 1957 and in view of the lack of personal repercussions between 1957 and 1969 when he came to the United States, I concur in the opinion of the Director of the Office of Refugee and Migration Affairs that the respondent has failed to establish a well founded fear that his life or freedom would be threatened in Haiti on account of his race, religion, nationality, membership in a particular social group or political opinion. The application will therefore be denied.


The maximum relief that he is entitled to is that of voluntary departure and he will be accorded a period of 90 days within which to effect such departure.

ORDER: IT IS ORDERED that in lieu of an order of deportation the respondent be granted voluntary departure without expense to the government on or before 90 days from the date of this order or any extension beyond such date as may be granted by the District Director and under such conditions as the District Director shall direct.

IT IS FURTHER ORDERED that if the respondent fails to depart when and as required the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the following order shall thereupon become immediately effective: the respondent shall be deported from the United States to France on the charge contained in the Order to Show Cause.

IT IS FURTHER ORDERED that if the aforementioned country advises the Attorney General that it is unwilling to accept the respondent into its territory or fails to advise the Attorney General within three months following original inquiry whether it will or will not accept the respondent into its territory the respondent shall be deported to Haiti.

IT IS FURTHER ORDERED that the application for temporary withholding of deportation under Section 243(h) of the Immigration and Nationality Act be DENIED.


IRA FIELDSTEEL
Immigration Judge

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

MATTER OF

FILE A- 20 103 033 - N. Y.

Jacques Pierre

IN **Deportation**

PROCEEDINGS

-Respondent-

TRANSCRIPT OF HEARING

Before: **Ira Fieldsteel**, Immigration Judge

Date: **November 17, 1974** Place: **30 West Broadway,**
New York, N.Y.

Transcribed by **P. J. Killela** Recorded by **IBM Lanier**

Official Interpreter **Mrs. Kata Wahl**

Language **French**

APPEARANCES:

For the Service:

Allan A. Shader, Esq.,
Trial Attorney
New York, N. Y.

Station

For the Respondent:

Claude Henry Kleeffeld, Esq.,
100 West 73rd Street
New York, N. Y., 10023

1 IMMIGRATION JUDGE TO RESPONDENT (through official interpreter):
2 Q What language do you speak best, sir?
3 A French.
4 Q What is your name?
5 A Jacques Pierre.
6 Q Did you get a copy of this paper from the Immigration Service, by mail
7 about a little over a year ago, this Order to Show Cause?
8 A Yes.
9 Q Are you represented by Mr. Navarro, is he your attorney?
10 A Yes.
11 Q Raise your right hand please. Do you solemnly swear the testimony you
12 will give today will be the truth, the whole truth, and nothing but the
13 truth, so help you God?
14 A I do.
15 Q Put your hand down.
16 IMMIGRATION JUDGE: The Order to Show Cause will be Exhibit One.
17 IMMIGRATION JUDGE: Are you applying for voluntary departure--
18 Mr. Navarro, do you concede deportability as charged in the Order to Show
19 Cause?
20 MR. NAVARRO: Deportability is conceded, your honor.
21 IMMIGRATION JUDGE: Are you asking for voluntary departure?
22 MR. NAVARRO: Yes, your honor.
23 IMMIGRATION JUDGE: Mr. Shader, do you want to question him on voluntary
24 departure?
25 MR. SHADER: If I may, sir.
26 MR. SHADER TO RESPONDENT:

- 9a -

TRANSCRIPT OF HEARING

1 Q Have you ever been arrested for crime, anywhere in the world?
2 A No.
3 Q Have you ever belonged to any Communist organization?
4 A No, ne er.
5 Q How many times have you come to the United States?
6 A I came for the first time.
7 IMMIGRATION JUDGE TO RESPONDENT:
8 Q Let's get it a little bit more precise. When you came on October 18,
9 1969, that is the first and only time you came to the United States?
10 A Yes, that is the only time, sir.
11 MR. SHADER TO RESPONDENT:
12 Q Do you have any family in the United States?
13 A No.
14 Q Are you employed here?
15 A Yes, I am.
16 Q What do you do?
17 A Die keeper.
18 IMMIGRATION JUDGE TO RESPONDENT:
19 Q A what?
20 MR. SHADER: A die keeper, D - i - e . keeper.
21 MR. SHADER TO RESPONDENT:
22 Q Not a die cutter?
23 A No a die keeper.
24 Q Where do you work? Is that McGill (spelled) Company?
25 A Yes.
26 Q Is that G. L. McGill Company?

- 10a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 A Yes.

2 Q And what is the address there?

3 A --

4 IMMIGRATION JUDGE TO RESPONDENT:

5 Q Wait for the interpreter and reply in French.

6 A 34 Atlantic Avenue.

7 Q 34 Atlantic Avenue, that's in Brooklyn?

8 A Yes, Brooklyn.

9 Q How long have you been working there?

10 A Three years, sir.

11 Q And how much do you earn per week?

12 A Now I make \$135 a week.

13 Q How much savings do you have?

14 A I have \$2,000.

15 Q Do you have any source of income other than your earnings from your

16 employment as die keeper or die cutter from the E. L. McGill Company?

17 A I have a clothing store in Brooklyn, that also produces some income.

18 Q What do you sell there?

19 A I sell clothes, I sell pants, slacks, jackets.

20 MR. SHADER TO RESPONDENT:

21 Q For men only?

22 A For men and ladies - apparel.

23 Q What is the address of this store?

24 A ten-seven seven Rutland Road.

25 Q Is that on the ground floor?

26 A Third floor.

- 11 -

TRANSCRIPT OF HEARING

1 Q Is there a name on this shop? Does it have a name?
2 A Morgan Star.
3 Q One word or two words?
4 A Northern Star.
5 Q Who operates the store while you are working at the McGill Company?
6 A Well I am working part-time at the McGill Company and if nobody is at the
7 store, I leave from my work and I open the store.
8 Q When do you open the store?
9 A Four-thirty to seven, every day. Or from ten a.m. to seven p.m.
10 Q Ten a.m. to seven p.m./?
11 A Yes.
12 Q And do you operate the store yourself or do you have some help?
13 A No, this is my store, I Operate it myself.
14 Q Do you pay rent at this store?
15 A Yes.
16 Q How much rent do you pay? Per month?
17 A \$130 per month.
18 Q How much do you earn from this store, per week or per month?
19 A Well, after all my expenses, I have to pay rent, lights, I have to pay
20 my taxes, there is not much, not very much left, but perhaps sixty or
21 seventy dollars per month.
22 IMMIGRATION JUDGE TO RESPONDENT:
23 Q Per month, or per week?
24 A Per month, but sometimes I make a little more than that.
25 Q Why do you bother to operate a store for for only sixty or seventy
26 dollars a month? It doesn't seem worth it, does it?

- 12a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 A Well, I am in the hope that later on I am going to do better there, and
2 now it is only a part-time proposition and when I can work up to a better
3 income then I can give up the other work and I can devote all my time to
4 this store.

5 MR. SHADER TO RESPONDENT:

6 Q How much do you earn from McGill Company?

7 A ---

8 IMMIGRATION JUDGE: He said \$125 a week.

9 COUNSEL: Yes, 125 a week.

10 MR. SHADER TO RESPONDENT:

11 Q Let me ask you a question similar to what the judge just asked you.

12 Does it pay for you to operate a store for a few hours a day?

13 A I find it worthwhile because I do have some capital invested in my
14 merchandise. I pay all the expenses connected with the store. I pay my
15 taxes on the store and I still have sixty or seventy dollars left and I
16 also as I have said before I have the hope of doing better as time goes
17 on, and then I will have time for the store, but now it is just part-time.

18 Q How long have you had this store now?

19 A One year.

20 Q Have you anyone on salary or have you had to have help from time to time?

21 A No.

22 Q You are just operating the store yourself?

23 A Yes.

24 Q When did you say the store was open? You are the only one there?

25 A Correct, sir.

26 Q Now, if given the privilege of voluntary departure where would you go?

- 13a -

TRANSCRIPT OF HEARING

1 A I can't go back to my own country, Haiti, for personal reasons, I would
2 choose France.

3 IMMIGRATION JUDGE: I meant to ask before, is there an application for a
4 visa pending anywhere for this man? Do you know. Tell me from the file?

5 MR. NAVARRO: Actually there was one pending, based on a marriage, but I
6 understand they are not living together any more.

7 IMMIGRATION JUDGE: Marriage to whom? Well, I assume you have the mar-
8 riage certificate there and the petition, or something. What do you have
9 there?

10 MR. NAVARRO: All I have is a notation on the file.

11 IMMIGRATION JUDGE: Nothing in your file that is relevant?

12 MR. NAVARRO: Right.

13 IMMIGRATION JUDGE: Tell me what you have there. May I see it?

14 MR. NAVARRO: This is a copy of an I-130.

15 IMMIGRATION JUDGE: There is exhibited a marriage certificate between
16 Jacques Pierre, 217 Martin Street, and Lynn C. Sumpter, marriage on August
17 15th, 1973, Brooklyn, New York .

18 IMMIGRATION JUDGE TO RESPONDENT:

19 Q Mr. Pierre, were you married or weren't you married?

20 A Yes.

21 Q And what happened, where is Lynn Sumpter now?

22 A I don't know. I tell her stay in the store when I go to work...

2 Q Was she married before?

24 A Her? No.

25 Q Does she have any children?

26 A She has three children, in Haiti.

- 14 a -

TRANSCRIPT OF HEARING

1 Q How about you? Were you ever married before?

2 A No.

3 Q Did you ever live together with this lady?

4 A No, I didn't. She refused to leave her own home and come to live with
5 me and I didn't want to leave mine to go and live at her place.

6 IMMIGRATION JUDGE: I don't think you have answered the question, Mr.
7 Navarro about the visa application. Where was that pending, or is it
8 pending?

9 MR. NAVARRO: Well, as I say, I noticed that there was a marriage, but I
10 don't see that copy of the I-130 which indicates that we filed one for him,
11 probably in view of the fact they were not living together, it was decided
12 not to pursue, or not to file the I-130 for him, as it would be against the
13 regulations of the Service.

14 IMMIGRATION JUDGE: All right, the marriage certificate is returned.

15 MR. SHADER: Just one question if I may.

16 MR. SHADER TO RESPONDENT:

17 Q Now, getting back to your store, what would you say your inventory was
18 worth, wholesale, for the store?

19 A First I paid \$2,000 for the store itself, then I bought merchandise in
20 the value of two and a half thousand dollars, and later I bought more
21 merchandise for about \$3,000. So I would put down for what I paid for
22 the store, plus the merchandise that I put in, I would value it all at
23 between seven and a half to eight and a half thousand dollars.

24 Q Where did the money come from to ^{pay} ~~pay~~ for all this merchandise and the
25 store?

26 A All this money came from my savings because I have been in this country

- 15a -
TRANSCRIPT OF HEARING

1 for over five years. Well, about five years.

2 Q What is the most you earned in any one week in this country?

3 A In the beginning, or now?

4 Q Anytime?

5 A Well, I must tell you that I am also a carpenter, and I do contracts
6 for carpentry work. There have been times in the beginning when I
7 only made eighty dollars on my job, but it happens some times that I
8 make five and six hundred dollars a week, on my private job.

9 Q Are you still a private carpenter?

10 A No, because I don't have the time for this. I don't do this any more.

11 Q Before you worked for McGill Company, where did you work?

12 A I worked in Flushing in a factory but I have forgotten the
13 name.

14 Q How long did you work there?

15 A About two years.

IMMIGRATION JUDGE TO RESPONDENT:

16 Q
17 When you say that you worked part-time for McGill, how many hours a
18 week do you work for McGill?

19 A I work full-time for McGill. I began to work there from 7:30 until
20 four in the afternoon.

21 Q And you had your store open from 4:30 until 7:00?

22 A Yes.

23 Q So if the store is open during the day, that couldn't possibly be so,
24 could it?

25 A During my vacation from my work at McGill, I tried to keep the store
26 open all day, but it was not successful, I could not.

- 16 -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 MR. SHADER TO RESPONDENT:

2 Q You say this store with that tremendous inventory, you only can keep
3 it open a few hours a day? Four hours a day?

4 A Well I would still say that it is worthwhile operating my store, because
5 I never needed assistance and I still make a little money on it, and I
6 hope to make more.

7 Q If given the privilege of voluntary departure how soon would you
8 leave, in what period of time?

9 A To answer this question, as to how soon I would leave I have a problem...

10 IMMIGRATION JUDGE TO RESPONDENT:

11 Q Well your attorney is asking for voluntary departure in your behalf and I
12 would expect some indication as to when you plan to leave, if you plan to,
13 if you really expect me to consider your application seriously?

14 MR. NAVERO: We are, your honor, asking for political asylum, to invoke
15 the provisions of Section 243(h).

16 IMMIGRATION JUDGE: We haven't gotten to that yet. This man says he wants
17 to leave voluntarily, I want to know when and how he is going to leave.

18 IMMIGRATION JUDGE: All right, I will give you an opportunity to go out of
19 the room and talk this over with your lawyer.

20 IMMIGRATION JUDGE: Let the record reflect the hearing is resumed after a
21 short recess.

22 IMMIGRATION JUDGE TO RESPONDENT:

23 Q Do you have anything further to add to your answer to my question as to
24 when you plan to leave the United States?

25 A Yes, I am ready your honor.

26 Q Ready when? You haven't answered the question.

17
TRANSCRIPT OF HEARING

1 A I believe that in six months I can dispose of my affairs.

2 Q Why should you have six months? I don't understand why you should have
3 six months?

4 A Because I have not yet found anyone who could buy my store and if I
5 can't find someone to buy the store then in that case I would have to
6 sell the merchandise,

7 Q Have you made any efforts to sell your store?

8 A Well, I never tried, I never attempted to sell the store because I
9 didn't know that I would have to leave here.

10 Q The Immigration Service says that you were illegally in the United States
11 let's see, a year and four months ago.

12 A Well, I had my lawyer who lead me to believe that since I had people in
13 the country, and I did not know it would come to this pass.....

14 Q Keep you in the country how long ?

15 A Well what I was told before maybe there would be a change in the govern-
16 ment and then I could go back. I used to be a follower of De Joie's Party,
17 and you might know all those who have been followers of De Joie's Party ,
18 were imprisoned, and I could not go back under Mr. Duvalier's government.

19 Q Why did you marry a woman with three children who wouldn't live with you?

20 A The lady nevdr told me before I married her that she was not willing to
21 live with me, that was only after I had the marriage that she told me she
22 didn't want to come and live with me in my house.

23 Q Have you started an action for a divorce against her?

24 A No.

25 Q Well, why not, Why be stuck with a wife or a woman who won't live with you?

26 A Well I did not take any action in this respect because I know this costs

- 102 -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 money and I don't think I have any money now, and before I can go ahead
2 to start any divorce action I must see a lawyer about that.

3 MR. SHADER TO RESPONDENT:

4 Q You don't support her, do you?

5 A --

6 Q She is on welfare, isn't that right?

7 A Well, she does come to me when she needs extra money, I do not give
8 here enough for her support and for the children's support, I would have
9 to give her at least sixty dollars a week but I can't give her this kind
10 of money, but whenever she comes to me for something and I can give her
11 something I do, but this is not her regular support.

12 Q How much all told have you given her?

13 A I give her sometimes, ten, sometimes twenty dollars, pocket money and
14 what ever she needs and I give her some food and clothes.

15 Q Is it a fact that your marriage has not been consummated?

16 A We have relations with each other from time to time and she just told
17 me only that she can't move.

18 Q And you are not contemplating divorce, is that right?

19 IMMIGRATION JUDGE: Well, he hasn't started anything yet on a divorce.

20 MR. SHADER: That's correct, but is he contemplating it - a divorce?

21 BY RESPONDENT: Up to this time I haven't thought of divorce at all. I
22 would much rather have her come and live with me, because I cannot be
23 without a woman I have to have a woman with me and I am hoping that I can...

24 IMMIGRATION JUDGE TO RESPONDENT:

25 Q Where does she live?

26 A # 613 Bridge Street Brooklyn.

- 19a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q Has she told the welfare people that she is married?

2 A She never told me, I don't know about that.

3 Q Well, you, as her husband, did you not tell them , or ask her to get
4 off the relief?

5 A I have told her that she should stop being on welfare. I told her that
6 I would like her to come and stay with me and take part in my work, like
7 in the store and help me but she never wanted to do that.

8 Q Now at this address where you live 217 Montrose - Street, who lives
9 there?

10 A I live by myself but.....

11 Q Go ahead..

12 A First I lived alone in the basement of that house, now I am living on
13 this friend.
14 the first floor with -/we each have a room - but my room, I live alone.

14 Q Is this friend a man or a woman?

15 A A man.

16 MR. SHADER TO RESPONDENT:

17 Q What is his name?

18 A His name is George Morend (M o r a n d) (spelled).

19 IMMIGRATION JUDGE TO RESPONDENT:

20 Q In this apartment are you the only two people who live there?

21 A Yes.

22 MR. SHADER: That is all on the issue of voluntary departure.

23 IMMIGRATION JUDGE TO RESPONDENT:

24 Q If you don't leave the United States and have to be deported, to what
25 country would you wish to be sent?

26 A I would pick France, sir.

- 20a -

TRANSCRIPT OF HEARING

United States Department of Justice -- Immigration and Naturalization Service

1 Q Well, under the law, if France will not accept you and you have to be
2 departed, then your deportation will be directed to Haiti. Do you
3 understand that?
4 A I understand it.
5 IMMIGRATION JUDGE: Now, Mr. Shader, was an application for 243(h) sub-
6 mitted?
7 MR. SHADER: Well actually his claim was made....
8 IMMIGRATION JUDGE: Well, you have some piece of paper on which it was
9 written.
10 MR. SHADER: I believe that is with the record file, sir.
11 IMMIGRATION JUDGE: I have nothing but the Order to Show Cause, Mr. Shader.
12 Oh, I see, it is on the outside. O. K. Well, apparently there was no
13 fee paid on this application. Will that fee be paid within the next ten
14 days, Mr. Navarro?
15 MR. NEVARO: It will, your honor.
16 IMMIGRATION JUDGE: All right, will you question your client now on that?
17 But before starting the question, Mr. Navarro.
18 IMMIGRATION JUDGE: Mr. Shader did this Service take the usual statement
19 of this man's claim?
20 MR. SHADER: It was, sir.
21 IMMIGRATION JUDGE: And was it submitted to the State Department?
22 MR. SHADER: It was, sir.
23 IMMIGRATION JUDGE: And do you have the answer from State?
24 MR. SHADER: I have the answer, sir.
25 IMMIGRATION JUDGE: Will you show them both to Mr. Navarro, if he hasn't
26 seen them?

- 218 -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 MR. SHADER: Certainly. This one is our letter to the State Department
2 and this is the response by the State Department.

3 IMMIGRATION JUDGE: There will be a short recess while Counsel reads them.
4 Yes, Mr. Nevaro?

5 MR. NEVARO: I have no objection to the letter sent by the Service dated
6 February 17, 1974.

7 IMMIGRATION JUDGE: Well as far as you know did it contain a correct and
8 factual statements relating to your client?

9 MR. NEVARO: Yes, sir, I would say so. However, Mrs. Wahl the French
10 interpreter I would like to have her read it back to him quickly so that
11 he would know what the letter says. He wouldn't understand the English here.

12 IMMIGRATION JUDGE: All right, will you do that, Mrs. Wahl?

13 MRS. WAHL: Surely.

14 IMMIGRATION JUDGE TO RESPONDENT:

15 Q All right, now that the interpreter has read the statements over to
16 you are these- at least the facts themselves, are they correct as stated?

17 A Yes it is substantially correct, but there are two things that ought
18 to be corrected. It says here that my mother Augusta Pierre, at Port
19 au Prince. I have two children, one son and one daughter. Otherwise
20 it is correct.

21 Q The government has handed me your passport. Is this your passport?

22 A Yes, it is.

23 Q Why does your passport show you to be married?

24 A Well as I said before, it was not I who went to get this passport. It
25 was a friend of mine and maybe he thought it would be better if I were
26 listed as a married man. I don't know.

- 22a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q When you obtained the marriage license in connection with this marriage in
2 August of 1973, what did you tell the marriage license people?
3 A What did I say?
4 Q There is a question on the application for the marriage license which says
5 - you were married before - you were supposed to answer that question.
6 A I put down that I was not married because I have not been married before.
7 IMMIGRATION JUDGE: The statement of facts which you have had read over to
8 you will be Exhibit Two. The reply from the State Department will be Exhibit
9 Three. Now using that statement of facts as a basis, do you want to ques-
10 tion your client further, Mr. Nevaro?
11 MR. NEVARO: Yes.
12 IMMIGRATION JUDGE: Go ahead.
13 MR. NEVARO TO RESPONDENT:
14 Q Did you belong to any party in Haiti, political party?
15 A I belonged to the party of De Joie, since 1957.
16 Q Was there any rivalry between the De Joie party and the Duvalier govern-
17 ment?
18 MR. SHADER: I object.
19 IMMIGRATION JUDGE: No, I'll allow the question, go ahead.
20 BY RESPONDENT: They are all trying to get the people who were around DeJoie,
21 and Duvalier, they are still far apart.
22 MR. NEVARO TO RESPONDENT:
23 Q Would you call them political enemies?
24 MR. SHADER: I object.
25 IMMIGRATION JUDGE: I'll permit this last question. I am familiar enough
26 with the situation to take judicial notice of the fact that there was hostility

1 between the two factions, the De Joie's and the Duvaliers, back at the
2 time that Duvalier was running for office, and in fact some of the De Joie's
3 followers were killed by the Duvalier Party. I am familiar with those facts.
4 It's a matter of history. But let him answer the question anyway.

5 BY RESPONDENT: They are political enemies. Since then nobody who was con-
6 nected with the DeJoie political movement could get a ^{job} post in Haiti, under
7 the Duvalier government.

8 MR. NEVARO TO RESPONDENT:

9 Q Besides not getting any jobs, are there any other ways that this rivalry
10 is apparent?

11 A No persons who are or were for DeJoie can be safe, they can be denounced
12 for having done something subversive against the present government, when
13 they haven't done anything at all, they can be put into prison without any
14 reason at all, and even killed. This happens all the time.

15 Q Did anything happen to you personally that caused you to fear for your
16 life or safety?

17 A Why yes, something did happen. My boss, Mr. Cesar, who was a follower
18 of DeJoie had been arrested and has been beaten and tortured to death.
19 And those all of those, who had been around with him had to fear for
20 their lives, and if they could have gotten to them they too would have
21 been arrested.

22 Q Would it happen to you, in your opinion, if you had been caught and
23 arrested?

24 MR. SHADER: I object.

25 IMMIGRATION JUDGE: Well, let's ask him first, did anything happen to him?

26 BY RESPONDENT: Well, if I would not have Left Haiti when I did, to go to

Port au Prince...

- 21a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Port au Prince, I still think something would have happened to me, because
2 I found out that the other friends of Mr. Cesar has been arrested in prison
3 and many of them have suffered persecution because they remained in Haiti.
4 I did not want to take that chance.

5 MR. NEVARO: TO RESPONDENT:

6 Q And you say that if you return to Haiti you will be persecuted at this
7 time?

8 MR. SHADER: Object, leading.

9 IMMIGRATION JUDGE: I'll allow it.

10 BY RESPONDENT: The same thing would happen to me as what happened to my
11 friends if I returned to Haiti. The government is still the same.

12 MR. NEVARO: No further questions, your honor.

13 MR. SHADER TO RESPONDENT:

14 Q Do you have sisters and brothers in Haiti?

15 A I have two sisters and one brother in Haiti.

16 Q What does he do?

17 A My brother is a young man, about 32, he is not quite all there. He has
18 lost some of his senses. No, he was 22 years old when I left, and he was
19 not mentally quite all right. He also has pretty bad eyesight. He never
20 worked. My mother is a very old woman, and she is quite sick. She is
21 seventy-three years old. One of my sisters is married to a man who
22 doesn't work steady, once in a great while, at some occasional job. She
23 has eleven children and when I can I help them, I send them something.

24 Q I have here your passport. I ask you, the visa which appears on page
25 11, did you appear at the American Embassy to obtain this visa?

26 A It was such a long time ago, I can't remember exactly. I can only tell

- 25a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 you that the passport itself was obtained by my friend, and then of course
2 the different agencies involved, and then the fees and he has to also obtain
3 the American visa for the client. I don't know how they do this it was
4 such a long time ago I have forgotten it.

5 Q But surely, if you appeared at the American Embassy, you would remember
6 that.

7 A I do remember that I have been on several occasions at the American
8 Embassy but I don't know whether on one occasion I did receive this visa
9 or not.

10 **IMMIGRATION JUDGE TO RESPONDENT:**

11 Q Where did you tell the American Consul that you were going in transit to?

12 A --

13 Q Your transit visa means that you were supposed to go through the United
14 States to someplace else. Where were you going?

15 A More steps had to be taken in connection with the passport, my friend
16 who had influence with the authorities.

17 Q Yes, but you carried the ticket, didn't you?

18 A No, he did everything for me.

19 Q When you came to the United States you had the ticket in your possession
20 and you were supposed to go to some other country, weren't you?

21 A The ticket was to go to Canada.

22 Q Were you going to Canada? Did you intend to go to Canada?

23 A My intention was simply to get out of the country, because I had known, I
24 heard of all these problems that my friends had some of them, and I didn't
25 want to be killed. It was immaterial to me where I went just as long as I
26 got out of Haiti. I didn't care if I went to Canada or where, I just

- 26a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 wanted to get out of there, get away from it all.

2 MR. SHADER TO RESPONDENT:

3 Q Is your true name Pierre Jacques? Or Jacques Pierre.

4 A Jacques is my first name, and Pierre is my last name.

5 Q And were you born April 8, 1929?

6 A Yes.

7 Q And were you residing at that time at 136 Rue de Marat?

8 A When I was in Port au Prince, Yes.

9 Q And had you been born in Cap Haitien?

10 A Yes, that is my birth place.

11 MR. SHADER: I would like to enter for the record the photostatic copy
12 of the second - page of this passport.

13 IMMIGRATION JUDGE: For what purpose?

14 MR. SHADER: The record may reflect the fact, the passport with the true
15 name of the respondent, he was able to leave from Haiti with this passport.

16 IMMIGRATION JUDGE: Well, the record so reflects I don't need the passport
17 itself.

18 MR. SHADER: That is all at this time.

19 IMMIGRATION JUDGE: We never got one answer.

20 IMMIGRATION JUDGE TO RESPONDENT:

21 Q Do you or do you not have an Application for a visa pending somewhere?

22 A --

23 Q Your attorney says the file doesn't show anything like that? I want to
24 know from you?

25 A --

26 Q In other words, have you submitted a birth certificate, a police cert-

- 27a -

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 -ificate or anything of that sort to an American Consul outside the United
2 States?

3 A No, sir, never.

4 MR. NEVERO: We can expect your honor, a reconciliation in that case, between
5 these people, it would do it in that case, if they live together in the man-
6 ner required by the Immigration Service. But it would not be proper actually
7 to submit such an application until that time. If he comes to us and tells
8 us he is living with his wife and whatever the other circumstances may be,
9 we would be willing to file that application for him.

10 IMMIGRATION JUDGE: All right, Counsel, do you have anything further?

11 MR. NEVERO: Nothing further.

12 IMMIGRATION JUDGE: All right, I expect the fee to be paid on or before
13 October 27th. I will reserve my decision and will make my decision in writing.
14 Hearing is closed.

15
16
17 I hereby certify that the best of my knowledge and
18 belief the foregoing is a true and correct transcript of the
19 proceedings described herein.
20
21
22
23
24
25
26

Signature

Title

UNITED STATES IMMIGRATION SERVICE

In the Matter of:

Jacques PIERRE

File No. A20 104 033

: APPLICATION FOR RELIEF
: UNDER SECTION 243-H
: ON THE IMMIGRATION AND
: NATIONALITY ACT AND
: FOR STAY OF DEPORTATION
: IN THE EVENT I AM ORDERED
: DEPORTED.

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

JACQUES PIERRE, being duly sworn, deposes and says:

That I am the above-named alien.

That I am requesting a stay of deportation in case I am ordered deported and a hearing be held so that I may apply for relief under Section 243-H because it is my belief that I would be subject to persecution should I have to return to Haiti. My employer and friend was killed by the Duvalier Regime and the government was looking for me, I had to leave my native country to stay alive.

The above has been read to me in French.

Ce qui precede m'a ete lu en francais.

Jacques Pierre

Jacques PIERRE

SWORN TO BEFORE ME THIS
22nd DAY OF OCTOBER, 1974

Claude H. Keefe
CLAUDE H. KEEFE
NOTARY PUBLIC, State of New York
No. 31-7288750
Qualified in New York County
Commission Expires March 30, 1976

20 West Broadway
New York, New York 10007

A20 104 033 DB/EM

July 16, 1974

Mr. Jacques PIERRE
217 Martense Street, Basement Apt.
Brooklyn, New York

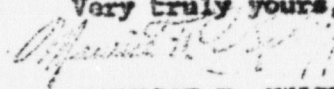
Dear Sir:

Reference is made to your request for political asylum filed on June 19, 1973, and elaborated upon on January 23, 1974.

In consultation with the Department of State, this Service has determined that there is no basis for granting your request for political asylum.

This finding does not preclude you from filing an application under Section 243(h) at the time of your deportation hearing, if you so desire.

Very truly yours,


MAURICE F. KILEY
ACTING DISTRICT DIRECTOR
NEW YORK DISTRICT

CC: Claude H. Kleeffeld, Esq.
100 West 72nd Street
New York, New York 10023

DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

JULY 11, 1974

DEAR MR. KILEY:

Reference is made to your letter of February 7, 1974 concerning the request for asylum of Jacques Pierre, A20 104 033), a citizen of Haiti.

On the basis of the information presented, we do not believe that Mr. Pierre has made a valid claim to asylum. His claim is based on the allegation that his employer was arrested and beaten to death because he was a supporter of Dejoie. It is noted that this incident supposedly took place some eleven years after Duvalier assumed power in Haiti. Further, it is noted that Mr. Pierre alleges no Government harassment or persecution of his person, but rather bases his claim on the alleged events surrounding his employer. Even were that incident true, we know of no instance in which the current Government of Haiti has persecuted family members or associates of persons involved in subversive acts against the present or past Government of Haiti.

Unless Mr. Pierre can provide more substantial evidence to support his claim, we are unable from the information thus far submitted to conclude that he should be exempted from regular immigration procedures on the grounds that he would suffer persecution on account of race, religion, nationality, political opinion, or membership in a particular social group should he return to Haiti. Should Mr. Pierre present additional information which to the Service seems to require further review, we will be pleased to give further consideration to his case.

Sincerely,

LOUIS A. WIESNER
DIRECTOR
OFFICE OF REFUGEE AND
MIGRATION AFFAIRS

MR. MAURICE F. KILEY
ACTING DISTRICT DIRECTOR
IMMIGRATION AND NATURALIZATION SERVICE
20 WEST BROADWAY
NEW YORK, NEW YORK 10007

A20 104 033 DB/EM

20 WEST BROADWAY
NEW YORK, NEW YORK 10007

FEBRUARY 7, 1974

DIRECTOR
OFFICE OF REFUGEE AND MIGRATION AFFAIRS
DEPARTMENT OF STATE
WASHINGTON, D.C.

DEAR SIR:

Your recommendation is requested in the case of Mr. Jacques PIERRE who has made application for political asylum.

Mr. Pierre a native and citizen of Haiti, was born in Cap-Haitien, Haiti on April 8, 1929. His father, Ademar Pierre is deceased; his mother, Augusta Pierre resides in Port-au-Prince. He has two illegitimate children in Haiti residing with their mothers. Mr. Pierre is married to Lynn Sumpter, an alleged United States citizen.

Mr. Pierre last entered the United States at San Juan on October 18, 1969, as an alien in transit. Mr. Pierre is in possession of Haitian passport 6829-69 issued June 27, 1969, and valid to June 26, 1970. His passport

contains a C-1 visa issued on September 29, 1969 by the American Consul in Port-au-Prince.

Mr. Pierre was initially granted until October 21, 1969 to depart. He failed to depart and deportation proceedings were initiated on June 6, 1973.

Mr. Pierre states that he was a supporter of Dejoie, a politician who opposed Duvalier in 1957. Mr. Pierre alleges that Dejoie was supported by the majority of the population. However, since the military supported Duvalier he came into power. Mr. Pierre states that in 1968, he was employed as a carpenter by Innocento Cesar in Cap-Haitien. Mr. Cesar, also Dejoiest, was taken to prison and beaten to death because of his support of Dejoie. Mr. Pierre also alleges that other employees of Mr. Cesar were harrassed and imprisoned. Because of this situation, Mr. Pierre moved to Port-au-Prince in June 1969. There he made arrangements to leave Haiti. Mr. Pierre states that he believed he would have been denied a passport. He therefore, had a friend take out the passport for him.

Mr. Pierre states that no other member of his family have been subjected to any persecution. He believes that if he returns to Haiti he will be arrested. He has no further information or evidence to submit in support of his claim.

Very truly yours,

MAURICE F. KILEY
ACTING DISTRICT DIRECTOR
NEW YORK DISTRICT

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

ORDER TO SHOW CAUSE and NOTICE OF HEARING

In Deportation Proceedings under Section 242 of the Immigration and Nationality Act

UNITED STATES OF AMERICA:

In the Matter of)

PIERRE, Jacques)

Respondent.)

To: _____
(name)

File No. **A20 104 033**

217 Martine Street, basement apt., Brooklyn, New York

Address (number, street, city, state, and ZIP code)

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States;
2. You are a native of Haiti
and a citizen of Haiti;
3. You entered the United States at San Juan, Puerto Rico on
or about October 18, 1969
(date)

travail

4. At that time you were admitted as a nonimmigrant visitor for pleasure.
Oct. 21, 1969
5. You have been authorized to remain in the United States until _____.
6. You remained in the United States thereafter without authority.

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

Section 241(a)(2) of the Immigration and Nationality Act, in that, after admission as a nonimmigrant under Sec. 101(a) (15) of said act you have remained in the United States for a longer time than permitted.

WHEREFORE, YOU ARE ORDERED to appear for hearing before a Special Inquiry Officer of the Immigration and Naturalization Service of the United States Department of Justice at _____

20 W. Broadway, New York, N.Y., 11th floor

on June 13, 1973 (M) at 8:45 a. m, and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: **June 6, 1973**

Form I-221
(Rev. 3-30-67)

IMMIGRATION AND NATURALIZATION SERVICE

Maurice H. D'Arcy

(signature and title of issuing officer)

DEPUTY DISTRICT DIRECTOR

NEW YORK DISTRICT
(city and state)

(over)

②

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Thomas J. Casie
UNITED STATES ATTORNEY

1-20-76 *JP*